



CORPORATION OF HARPERS FERRY

Planning Commission

STATEMENT OF CONFORMITY

Presented Tuesday, July 31, 2018

Town Hall • 1000 Washington Street, Harpers Ferry, West Virginia 25425

TO: SWaN Hilltop, LLC
FROM: Harpers Ferry Planning Commission
REGARDING: Hill Top House Hotel – Concept Design Plan Proposal
COPY: Harpers Ferry Mayor Wayne Bishop, Harpers Ferry Town Council, Harpers Ferry Board of Zoning Appeals, Harpers Ferry Historic Landmarks Commission, Harpers Ferry Tree Committee, Harpers Ferry Ordinance Compliance Officer

BACKGROUND:

The Harpers Ferry Planning Commission, made up of seven residents, (five appointed by the Town Council, one a Council Member, and one the Mayor's Designee) is a group of citizen volunteers that advises the Mayor, the Town Council, and the Board of Zoning Appeals, concerning building and land use issues within the .6 square mile that is the Corporation of Harpers Ferry.

PLANNING COMMISSION DIRECTIVE:

As mandated by Harpers Ferry Ordinance, Article 1313.04(a)(4)(B), upon full and fair consideration, the Planning Commission ***“must give the applicant a statement whether the proposal, if constructed, would “likely” conform with the Comprehensive Plan and the objectives of the Promontory Overlay District.”*** This statement is hereinafter, known as a **Statement of Conformity**.

To reach this Statement of Conformity, the Planning Commission met weekly and conducted extensive research into:

1. Harpers Ferry's Codified Ordinances,
2. The Harpers Ferry Comprehensive Plan (2007, 2013),
3. SWaN Hilltop, LLC's tri-partite Concept Design Proposal, consisting of the Concept Design Plan, the 3-D Digital Model and the Historic Resources Plan,
4. Public statements made (including statements submitted in writing) at the Planning Commission's official Public Hearing, held June 15, 2018, at the National Park Service's Mather Training Center. Approximately 70 people attended and 20 people spoke – eight were current residents of Harpers Ferry, nine were from surrounding communities (Bolivar, Ranson, Charles Town, Shepherdstown, Kearneysville), three were from Maryland and Virginia.

STATEMENT OF CONFORMITY:

The Harpers Ferry Planning Commission finds that of the eight (8) objectives of the Promontory Overlay District, SWaN's Concept Design Plan, if built, would "likely" conform to all of the objectives of the Promontory Overlay District except for objective #1 and possibly, objective #5, which will need to be negotiated before the Harpers Ferry Board of Zoning Appeals (or the Harpers Ferry Town Council, for road issues.) It will also, if built, "likely" conform to many goals of the Harpers Ferry Comprehensive Plan and potentially, could conform to all of them.

The Harpers Ferry Planning Commission recommends that SWaN Hilltop, LLC, the Harpers Ferry Board of Zoning Appeals, and the Harpers Ferry Town Council, work together, to devise mutually agreeable resolutions for a few sticking points, and in doing so, bring the entire Concept Design Plan into "likely" compliance with the goals of the Harpers Ferry Comprehensive Plan, and all of the objectives of the Promontory Overlay District.

NOTE:

Pursuant to Harpers Ferry Ordinance, Article 1313.04(a)(4)(C); *"discussions, statements or opinions of any member of the Planning Commission or the Planning Commission itself, written or otherwise, about the Concept Design Plan or the Historic Resources Plan made during the review or after it is completed are not binding on the Board of Zoning Appeals, the Corporation of Harpers Ferry, or any division or body thereof."*

DISCLAIMER:

The Harpers Ferry Planning Commission has done its best to ensure that the guidance in this Statement of Conformity is accurate and useful, based on the Concept Design Plan as presented. However, given that the ordinances are complex and the Planning Commission has not seen the final permit application, the Planning Commission does not represent that the recommendations contained herein are complete or will guarantee approval.

CONFORMITY TO THE OBJECTIVES OF THE PROMONTORY OVERLAY DISTRICT

The following is the Planning Commission's Statement of Conformity, addressed item by item, through the eight objectives of the Promontory Overlay District Ordinance, Article 1313.

Objective #1: Provide for building, land use, and site design appropriate to the Promontory and its buildings, including preservation of historic resources, woodlands and view-sheds.

The Planning Commission has identified a number of variances that will be required in order that the Concept Design, if constructed, could be considered likely to conform to Objective #1. The variances and conditional uses listed below will need to be requested, negotiated, and granted by the Harpers Ferry Board of Zoning Appeals. Additionally, those items relating to publicly owned property (i.e., roads and their rights-of-way and paper streets) and zoning map amendments will need to be brought before the Harpers Ferry Town Council and their legal counsel for resolution.

1. The main hotel building setback from Columbia Street will require a variance as set forth in Article 1313.04(f)(4). The main hotel building may have a historic encroachment on the setback from East Ridge Street and the new hotel building may require a variance.
2. The setback of the Outfitter building from Columbia Street will require a variance.
3. The proposed change to street grade level and improvements to Lancaster, Columbia and East Ridge Streets will require careful negotiation between the Town Council and the developer. Among the issues to be determined:
 - Who owns and is responsible for that portion of curved Columbia Street that is to be built on SWaN owned property?
 - The proposal indicates that SWaN will be using the area that is currently, and has historically been, Columbia Street, as hotel property, for bricked sidewalks, landscaped green spaces, etc. In doing so, is SWaN seeking ownership of the historic Columbia Street right-of-way?
4. The proposal to route new utilities under Town streets is encouraged (Harpers Ferry Ordinance Article 911) but will require special permission from the Town Council.
5. Proposed development beneath paved and paper streets will need to be negotiated with the Town Council.
6. Demolition of the existing hotel, which is a contributing structure of historic significance, will require Board of Zoning Appeals approval.
7. Conditional use approval for the hotel and restaurant may be required.
8. Approval for conditional use of the Kaufmann house (500 Washington Street) as an art exhibit space may be required.

Planning Commission Recommendation re/ Objective #1:

These eight (8) issues are points upon which the Board of Zoning Appeals (and the Town Council and its legal representatives, for issues of publicly-owned property) will need to engage in thorough negotiation, in order for solutions and agreements to be reached for the benefit of the proposed hotel AND the citizens and Town of Harpers Ferry. As presented in SWaN's Concept Design Plan, **some of the above listed issues are *not yet likely to conform to Objective #1 of the Promontory Overlay District.***

Objective #2: Provide for a notable and economically viable hotel and for other tourist accommodations on designated contiguous parcels to preserve and enhance historic resources in the Promontory Overlay District while limiting commercial activities within the underlying Residential District of the Promontory Overlay District to the same or similar commercial activities permitted in the Residential District.

The proposed hotel is "notable" and could be viable based on statistics provided within the Concept Design Plan. There is general agreement with this statement, however, questions related to the Residential District (RD) zoning for certain operations, i.e., the Lodge/Annex (which partially sits within the Residential District), being used as a commercial restaurant, will need to be resolved, and might require rezoning.

1. General consensus of the Planning Commission is that a rezoning to Business District (BD) should be considered for the Lodge/Annex.
2. For other lots within the Promontory Overlay District zoned as Residential, Conditional Use Permits will be required: i.e.; Outfitter building, the parking lots, and the short-term rentals in the Annex and Armory Houses.
3. A conditional use permit may be required for the cooking school at 490 Washington Street.

Planning Commission Recommendation re/ Objective #2:

The Town may make allowances for SWaN, based in part on good faith, and in part due to the prospect of economic benefit, but will expect a commitment from SWaN, that they plan to operate the hotel at this historically significant location well into the future, and will not sell to an entity less responsible in its agreements with and obligations to the Town of Harpers Ferry.

Given these assurances, and the successful rezoning of the Lodge/Annex property, **the proposal, if constructed, would *likely comply with Objective #2 of the Promontory Overlay District.***

Objective #3: Provide for architectural compatibility with the existing historic structures in the Promontory Overlay District and the larger community, thus integrating the overlay properties into the fabric of the surrounding neighborhoods as a transition and a buffer to a hotel on the Promontory.

Planning Commission Recommendation re/ Objective #3:

Given the preservation of existing armory houses along Washington Street and the bulk plane step down of the hotel building to a residential scale, the general consensus of the Planning Commission is that **the proposal, if constructed, would likely conform to Objective #3 of the Promontory Overlay District.**

Objective #4: Emphasize appropriate design and context sensitivity in Concept Design Planning and building design that can adapt this historic site to modern standards and ensure preservation of the site for future generations.

Planning Commission Recommendation re/ Objective #4:

Given the re-interpretation of the historic 1912-14 hotel design and the hiding of conference rooms, parking and back-of-the-house functions underground, the general consensus of the Planning Commission is that **the proposal, if constructed, would likely conform to Objective #4 of the Promontory Overlay District.**

Objective #5: Preserve existing access to public land within existing paved and unpaved rights-of-way (e.g., paper streets) within the Promontory Overlay District, including access to observation areas.

1. Improvements to Town-owned public and/or paper streets, along with other public land issues cited with Objective #1, should be addressed before the Town Council.
2. SWaN's Request for Information (RFI) regarding a perpetual permit for the open carry of alcohol on Town streets within the Promontory needs to be addressed to the mutual satisfaction of the Town and SWaN.
3. There is concern regarding access to the streets within the Promontory and the public view at the end of East Ridge Street - access that has always been paramount to Harpers Ferry residents and visitors alike.
 - How will the public retain access to that view at all times?
 - How will the hotel manage to have frequent outdoor gatherings and events, such as weddings and receptions, while still maintaining public and tourist access (including access for the disabled) to the promontory view?

Planning Commission Recommendation re/ Objective #5:

It is clear that questions about **this objective will have to be worked out to the mutual satisfaction of the Town and SWaN, before the Town Council, in order for the hotel, should it be constructed, to be in likely compliance with Objective #5 of the Promontory Overlay District.**

Weddings and other events are held at beautiful locations like Central Park in New York and at historic buildings all over the world, and they have been held without closing off public access to views or the sites. Potted shrubs, tented areas, artful lighting, attractive stanchions, well-placed service bars, etc., can be skillfully and artistically deployed to allow the public to access the promontory view without detrimental effect on the hotel's gatherings.

As stated in an RFI submitted by SWaN to the Mayor, the hotel will seek to have a permanent waiver of WV State liquor laws in order for hotel guests to carry alcoholic beverages freely at outdoor events on hotel grounds, although those grounds include paved and paper streets.

The Town may choose to grant special exception to the liquor laws, while SWaN assumes liability for their guests.

These and any other paved and paper street issues will have to be decided to the satisfaction of the Town Council and its legal counsel before construction can proceed.

Objective #6: Provide for increased Lower Town customer base, employment opportunities for local residents, new Town residents and increased overall revenue for the Town.

Planning Commission Recommendation re/ Objective #6:

With the potential for increased conference-based tourism in the off season, additional jobs and considerable hotel/motel and sales tax revenue to the town, the general consensus of the Planning Commission is that **the proposal, if constructed, would likely conform to Objective #6 of the Promontory Overlay District.**

Objective #7: Encourage sustainable design principles throughout the District for all properties, in accordance with Leadership in Energy and Environmental Design (LEED) certifications, whenever feasible.

Planning Commission Recommendation re/ Objective #7:

With the stated aim of obtaining LEED Certification for Building Design and Construction, the general consensus of the Planning Commission is that **the proposal, if constructed, would likely conform to Objective #7 of the Promontory Overlay District.**

Objective #8: Preserve, provide and maintain views from the Promontory toward the confluence of the Potomac and Shenandoah Rivers.

Planning Commission Recommendation re/ Objective #8:

The Concept Design preserves historical views from the promontory and, given SWaN's offer to provide annual trimming to maintain the view-shed, the general consensus of the Planning Commission is that **the proposal, if constructed, would *likely conform* to Objective #8 of the Promontory Overlay District.**

CONFORMITY TO THE GOALS OF THE COMPREHENSIVE PLAN

The proposed hotel's compliance with the Harpers Ferry Comprehensive Plan was reviewed by the Planning Commission. Noted items of interest are:

According to the Comprehensive Plan, the Planning Commission is to *"promote the orderly growth of the town."*

1. Goals stated in the Comprehensive Plan which the hotel could help the Town to achieve include:

- A. "Hotel is encouraged, while protecting surrounding community." Goal Sec. IV
- B. "Identify, protect, and maintain important view-sheds." Goal Sec. IV
- C. "To expand the Town's commercial development (and tax base) in a manner that compliments the historic character of Harpers Ferry." Goal Sec. IV (b)
- D. "40% of land in the town under tree canopy" Goal Sec. III (b)
- E. "To have a street system that is safe to use and provides appropriate access to adjoining land uses with a minimum of adverse impact" Goal Sec. V (c)
- F. "Determine if the steep intersections and drainage ways along Washington Street can be modified to reduce bottoming out of vehicles turning onto these streets" Goal Sec. V

2. Goals stated in the Comprehensive Plan which the town must expect the hotel to help the Town achieve include:

- G. "To ensure a sufficient supply of potable water to the Town's current and future residents..." Goal Sec. V (e)
- H. "To ensure that the quantity of wastes generated does not exceed the capacity of the treatment plant and that the quality of effluent leaving the plant meets all standards of the regulatory agencies." Goal Sec. V (f)
- I. "To control storm water run-off in a manner that protects the natural and built environment..." Goal Sec. V (g)
- J. "To have a quiet, peaceful community." Goal Sec. III (c)
- K. "To continue to be able to see the stars and planets." Goal Sec. III (c)
- L. "...reduce long-term idling of vehicles." Goal Sec. III (d)
- M. "To expand the Town's commercial development (and tax base) in a manner that compliments the historic character of Harpers Ferry." Goal Sec. IV (b)
- N. "To have safe and pleasant access for pedestrians throughout the community and facilities that encourage greater use of bicycles for recreation, commuting and shopping." Goal Sec. V (a)
- O. "To reduce the Town's dependence on nonrenewable energy resources through conservation..." Goal Sec. V (h)

The general consensus of the Planning Commission is that **the hotel, if constructed according to the Concept Design Plan, is likely to conform to stated goals of Harpers Ferry's Comprehensive Plan, noted above as A-E. Special attention will need to be paid by the Board of Zoning Appeals, the Town Council and SWaN to above items G-O.**

ADDENDUM TO THE STATEMENT OF CONFORMITY

The Planning Commission makes the following observations and suggestions:

In reviewing the proposed Concept Design Plan, the Planning Commission acknowledges that SWaN Hilltop, LLC has been responsive to public opinion regarding the overall size of the hotel. To that end, SWaN has voluntarily made the following changes from their original 2009 design proposal:

1. Enhanced the design with more appropriate architecture, reflecting acknowledgement of history and scale, including a step down of the hotel building at its far west extension nearest the residential neighborhood.
2. Adjusted the overall hotel size; reducing the gross square footage by more than 60,000 square feet (approximately 30%) and the above ground volume by more than 630,000 cubic feet (approximately 36%).
 - Reduced hotel rooms by 57 – from 179 to 122
 - Reduced parking spaces by 74 – from 250 to 176
3. Pursuant to Article 1313.04(f)(3)(A), The maximum building height of any hotel or structure shall not exceed 55 feet above the average road grade level of that portion of East Ridge Street between Columbia Street and Lancaster Street as of the effective date of this ordinance.

SWaN pledges the height of the Hilltop House Hotel will be within the 55 feet maximum limit.

As presented by SWaN to the Planning Commission, the Concept Design Plan does not preserve Harpers Ferry's historic street grid, as designated on the Harpers Ferry Historic District, Inventory of Contributing Resources, dated June 12, 2017.

SWaN's Concept Design Plan features a curved realignment of Columbia Street to accommodate traffic to and from the Hill Top House Hotel.

The proposed realignment of Columbia Street is a controversial issue among Harpers Ferry residents. To make the realignment more acceptable to the community the Planning Commission received these two suggestions:

1. SWaN preserve the two lots west of a realigned Columbia Street, to be kept, in perpetuity, as an undeveloped tree-filled buffer (perhaps under the name of T. S. Lovett to honor the contributions Mr. Lovett and his family made to Harpers Ferry).

The undeveloped lots would help to fulfill Harpers Ferry's Comprehensive Plan's tree goal, while alleviating the potential problems of noise and light pollution from the hotel into the adjacent historic residential neighborhood. Additionally, the extended green space would help mitigate problems related to vibration, hazard warnings from reversing trucks, and exhaust fumes from truck and bus deliveries.

2. The historic Columbia Street, as it currently exists, might be outlined or demarcated in a contrasting surface material so that the historic street grid can be seen, appreciated, and walked on, even though there is a new, curved, "improved for driving," Columbia Street just to the west.
3. It was noted that lighting and noise abatement are not part of the Concept Design Plan. Lighting and noise abatement would need to be considered by the Board of Zoning Appeals.

The Harpers Ferry Planning Commission has no authority or power to enter discussions or negotiations involving voluntary proffers between the Town of Harpers Ferry and SWaN Hilltop, LLC. The suggestions above are merely that...suggestions.

ADDITIONAL NOTES:

During SWaN's initial presentation of their Concept Design Plan they noted 4 (four) variances that they would be requesting:

- **Variance #1:** Realignment and changes to the street grade level of Columbia Street for safety and truck traffic
- **Variance #2:** Setback of 60 feet rather than 115 feet from existing Columbia Street for lower spa extension of main hotel building
- **Variance #3:** Changes to the street grade level of, and improvements to, East Ridge Street
- **Variance #4:** Underground parking